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CC:DOM:IT&A:4/GKhadiri

OCT 24 1996

Chief, Electronic Submissions Branch
Attn: Beatrice Howell

Assistant Chief Counsel (Income Tax & Accounting) CC:DOM:IT&A

ADP. Inc.'s Request for Review of Authorizations

This responds to ADP. Inc.'s ("ADP") letter dated June 26, 1996, requesting our assistance in reviewing and ensuring that the current and/or proposed limited powers of attorneys used by ADP are in compliance with Rev. Proc. 96-17, 1996-4 I.R.B. 69 which provides instructions for preparing and submitting Form 8655, Reporting Agent Authorization for Magnetic Tape and Electronic Filers ("Authorization") and Rev. Proc. 96-19, 1996-4 I.R.B. 80, which provides the requirements for participating in the Form 941 ELF Program. We coordinated our response with various functions within the Office of Chief Counsel and the Internal Revenue Service.

We also determined that it would be more appropriate to disseminate the following comments through a "bulletin" issued by your office to all Reporting Agents ("Agents") participating in the Form 941 ELF Program. The first section in this memorandum, which is presented for your benefit, reflects the coordinated comments from all functions that responded to our July 12, 1996 request for comments. This section is not to be communicated to ADP in written format. However, we may provide oral comments regarding ADP's proposed Authorization. The second section contains the same information that ADP has requested, but has been drafted in a manner that is applicable to all Agents. This section should be communicated to all participants, including ADP.

Coordinated Response to ADP's Request

First, ADP inquired as to the necessity for securing new Authorizations for ADP's current clients whose returns will be filed electronically. In this regard, ADP represented that the limited power of attorneys signed by ADP's current clients did not limit the medium for filing the returns. Furthermore, ADP stated that securing new Authorizations from these clients would require a substantial increase in paperwork and follow up, and proposed several alternatives to informing your current clients that their returns may be filed electronically.

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From a disclosure standpoint, disclosure requirements are conceptually no different when the medium of the communication changes. Given that the recipient of the disclosures made and the tax information being disclosed in the electronic environment are no different from those currently being made when filing tax returns on magnetic tape, section 6103(c) of the Internal Revenue Code would not require the execution of new Authorizations.

Although the Service will no longer require the submission of new Authorizations from ADP's current clients in the Form 941 ELF Program, the Service requires that ADP advise its clients that their Forms 941 may be filed electronically, and provide them with the option of rejecting electronic filing as the medium for filing their Forms 941. Such a rejection should be submitted to ADP in writing. We leave to ADP's discretion the most efficient and timely method of providing this notification to your clients. In addition, we need ADP's assurance that such clients would be immediately removed from ADP's electronic filing client base.

With respect to the revised Authorizations that are required for all ADP's new clients whose returns are filed through the Form 941 ELF Program after January 1, 1997, we provided oral comments to Ms. Regina Lee, Vice President, Government Affairs, of ADP on October 21, 1996. We recommended paralleling the specificity of the Service's Form 8655 to the greatest extent possible with respect to the affirmative actions it requires from the taxpayer. The Service's Form 8655 makes explicit the activities that ADP will perform for its customers by requiring the taxpayer's affirmation of the specific duties to be performed. For example, the Service's Form 8655 requires taxpayers to affirmatively indicate by checking the appropriate box(es) that ADP is authorized to act as designee to receive notices, transcripts, and deposit data frequency with respect to employment tax returns and/or federal tax deposits.

Bulletin Information

The following highlighted information should be disseminated by your office as soon as possible to all Agents:

A revised Form 8655, Reporting Agent Authorization for Magnetic Tape and Electronic Filers ("Authorization") (Oct. 95 date), or its equivalent is required for a reporting agent's ("Agent's") current client if the client's original Authorization limited the medium of filing Form 941, Employer's Quarterly Federal Tax Return, to magnetic tape or paper. Therefore, the Internal Revenue Service will no longer require a revised Authorization to replace a pre-December 31, 1996 Authorization that places no restriction on the medium of filing of Form 941 as long as the Agent complies with the following requirements:

The Service requires that Agents in the above-mentioned situation advise their clients that their Forms 941 may be filed electronically, and provide them with the option of rejecting electronic filing as the medium for filing their Forms 941. Such a rejection should be submitted to an Agent in writing. Agents may use the most efficient and timely method of providing this notification to their clients. In addition, Agents must immediately remove clients from the their electronic filing client base who object to having their Forms 941 filed electronically.

This bulletin does not change the requirement that Agents must make Federal Tax Deposit ("FTD") payments and submit payment information through the EFT system for a client that is mandated to make FTD payments and submit payment information through the EFT system pursuant to § 6302(h) of the Internal Revenue Code, regardless of the client's designation to the contrary.

Rev. Proc. 96-19, 1996-4 I.R.B. 80 is currently being revised to reflect the changes announced in this bulletin. However, the changes announced in this bulletin are effective immediately.

If you have any questions regarding your request, you may contact Gita Khadiri of my staff at (202)622-8445.

Sincerely,

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